

7A Am. Jur. 2d Automobiles § 102

American Jurisprudence, Second Edition | May 2021 Update

Automobiles and Highway Traffic

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III. Licensing, Taxation, and Registration

B. Drivers or Operators

1. In General

§ 102. Power to license; constitutional limitations

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Automobiles](#)  [130](#), [132](#), [136](#)

The state has the power to require the procurement of a license before one may operate a motor vehicle on the public highways.¹ This power to license carries with it the power to prescribe reasonable conditions precedent to the issuance of such licenses,² and to classify drivers for special regulation, provided such classifications are not unreasonable or arbitrary.³

Regulations pertaining to the issuance of motor vehicle drivers' licenses constitute an exercise of the police power to regulate the use of the highways in the interest of the public safety and welfare.⁴ In accepting a driver's license from a state, one must accept and agree to abide by all reasonable conditions imposed by the state.⁵

A statute mandating that every person who operates a motor vehicle on public roads must have a valid operator's license, unless he or she is exempted by statute, does not impermissibly infringe upon a citizen's right to travel.⁶ Such statutes are not unconstitutional on the ground that they abridge the privileges of citizens.⁷

A statute requiring the surrender of all valid operator's licenses issued by other jurisdictions as a prerequisite to issuance of a new driver's license is not violative of due process.⁸

A licensing requirement for drivers does not constitute an unconstitutional burden on the free exercise of religion where it is the least restrictive means for achieving the compelling state interest in the reasonable regulation of the public roadways.⁹ However,

a driver's licensing requirement that an applicant submit to having a color photograph taken for affixing on the license may unconstitutionally burden an applicant's free exercise of sincerely held religious beliefs.¹⁰

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Footnotes

- 1 *Lite v. State*, 617 So. 2d 1058 (Fla. 1993); *RBC Capital Markets Corp. v. Bittner*, 24 Misc. 3d 728, 877 N.Y.S.2d 877 (Sup 2009); *State v. Stuart*, 544 N.W.2d 158 (N.D. 1996); *State v. Hoover*, 123 Ohio St. 3d 418, 2009-Ohio-4993, 916 N.E.2d 1056 (2009); *Price v. Reed*, 1986 OK 43, 725 P.2d 1254 (Okla. 1986); *Hanson v. State*, 673 P.2d 657 (Wyo. 1983).
- 2 *Sheehan v. Division of Motor Vehicles of State of California*, 140 Cal. App. 200, 35 P.2d 359 (4th Dist. 1934); *Maumee v. Anistik*, 69 Ohio St. 3d 339, 1994-Ohio-157, 632 N.E.2d 497 (1994); *Smith v. Cox*, 609 P.2d 1332 (Utah 1980).
- 3 *Ex parte Stork*, 167 Cal. 294, 139 P. 684 (1914).
- 4 *State ex rel. Majerus v. Carter*, 214 Mont. 272, 693 P.2d 501 (1984); *Hanson v. State*, 673 P.2d 657 (Wyo. 1983).
- 5 *Brandmiller v. Arreola*, 189 Wis. 2d 215, 525 N.W.2d 353 (Ct. App. 1994), decision *aff'd*, 199 Wis. 2d 528, 544 N.W.2d 894 (1996).
- 6 *City of Bismarck v. Stuart*, 546 N.W.2d 366 (N.D. 1996); *State v. Booher*, 978 S.W.2d 953 (Tenn. Crim. App. 1997).
- 7 *Stevens v. State*, 319 Ark. 640, 893 S.W.2d 773 (1995).
- 8 *State v. Mitchell*, 115 N.H. 720, 349 A.2d 862 (1975).
- 9 *Coyle v. State*, 775 S.W.2d 843 (Tex. App. Dallas 1989).
- 10 *Quaring v. Peterson*, 728 F.2d 1121 (8th Cir. 1984), judgment *aff'd*, 472 U.S. 478, 105 S. Ct. 3492, 86 L. Ed. 2d 383 (1985) (allowing an applicant with such beliefs to have a license without a photo does not violate the Establishment Clause).

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